

A. G. Contract No. KR04-0800TRN
ADOT ECS File No: JPA 03-123
Project No.: SR 89 @ MP 289
Section: Kirkland Junction
TRACS NO.: H5435 01C/01R
BUDGET SOURCE ITEM # District Minor
(73306) / Bridge Replacement funding

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
YAVAPAI COUNTY, ARIZONA

THIS AGREEMENT is entered into September 13, 2004 pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and YAVAPAI COUNTY, ARIZONA, acting by and through its BOARD OF SUPERVISORS (the "County").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The County is empowered by Arizona Revised Statutes Section 11-251 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.
3. The State and the County desire to participate in the design and construction of the realignment of County Route 15 at the point it crosses State Route 89 (SR 89) and construct a continuous, left-turn lane on SR 89 between County Route 15 and Wagoner Road. The work also includes the following: (a) Construction of a right-turn deceleration lane on SR 89 at the intersection of SR 89 and County Route 15; (b) The realignment and reconstruction of approximately 1150 feet of County Route 15; and (c) The widening of the existing bridge structure on SR 89 (hereinafter collectively referred to as the "Project"). The total cost for construction of the Project and the necessary acquisition of right of way is estimated at \$1,412,200.00.
4. The parties agree that the State will be the lead agency for design and construction of the Project. The State's proportionate cost for the right-turn deceleration lane on SR 89 at the intersection of SR 89 and County Route 15, the continuous, left-turn lane and the widening of the existing bridge structure on SR 89 is estimated at \$816,200.00, and the necessary right-of-way acquisitions for SR 89 is estimated at \$80,000.00.
5. The parties agree that the County will pay the actual cost for the realignment and reconstruction of approximately 1150 feet of County Route 15, and will acquire necessary right of way for Project work on County Route 15. The costs are currently estimated at \$436,000.00 for construction and \$80,000.00 for

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Filed with the Secretary of State
Date Filed: 09/13/04

Janice K. Brewer
Secretary of State

By: Timothy D. Greenwald

necessary right-of-way acquisition. If bid estimates for construction costs should exceed the estimated amount stated herein, the State and the County shall have the option prior to award of the Project construction contract to renegotiate or cancel this Agreement.

6. The parties hereto agree to and acknowledge the following conditions: 1) The estimated monetary amounts referenced in this Agreement for the cost of the Project are subject to change and can change substantially; and 2) The parties will perform their responsibilities consistent with this Agreement; and c) Any change or modification to the Project will only occur with the mutual written consent of the parties.

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Prepare and provide design plans, specifications and other such documents and services required for construction bidding and construction of the Project, and submit same to the County for concurrence.

b. Advertise for bids and award one or more construction contract(s) for the Project. Administer same and make all payments to the contractor(s). Be responsible for any contractor claims for additional compensation caused by Project delays attributable to the State.

c. Be responsible for construction costs for the Project work to SR 89 including the right-turn deceleration lane, a continuous, left-turn lane on SR 89, widening of existing bridge structure on SR 89, construction engineering and administration costs in an amount currently estimated at \$816,000.00, and necessary right-of-way acquisitions for improvements to SR 89 in an amount currently estimated at \$80,000.00.

d. Be responsible for all design costs.

e. Provide maintenance to the Project *inside* the State right of way upon completion, approval, and acceptance of the Project by the parties hereto

f. Upon advertisement, but prior to award of a contract for the Project's construction, invoice the County for its proportionate share of the estimated cost of the work to County Route 15 of the Project in an amount currently estimated at \$436,000.00.

g. Provide the County a recapitulation of the work done on County Route 15 Project's final costs along with an invoice for reimbursement to the State by the County for the monetary difference between the estimated cost paid by the County and the actual costs for the work done on County Route 15 of the Project including construction, construction engineering, and administration costs currently estimated at \$436,000.00.

2. The County will:

a. Grant the State necessary temporary construction easements rights-of-entry for construction of the Project.

b. Prior to advertisement of bid, acquire the necessary right of way for the realignment and reconstruction of approximately 1150 feet of County Route 15.

c. Remove from the proposed right of way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the project area, including upon or private use of the right of way. In the event of any unauthorized encroachment or improper use, the County shall take all necessary steps to remove or prevent any such encroachment or use.

d. Review the Project design documents and provide comments to the State.

e. Be responsible for the actual construction and construction administration costs for Project work to County Route 15 currently estimated at \$436,000.00 and for actual right-of-way acquisition costs for improvements to County Route 15 currently estimated at \$80,000.00.

f. Within thirty (30) days after receipt of an invoice, remit to the State its proportionate share of the estimated cost of the work to County Route 15 of the Project in an amount currently estimated at \$436,000.00.

g. Be responsible for any contractor claims for extra compensation attributable to the County and for its proportionate share of any additional Project costs.

h. Upon completion and acceptance of the Project by the parties hereto, provide maintenance to the Project *outside* the State right of way.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion of the Project and reimbursements provided herein. However, any provisions herein for maintenance *outside* of State's right of way will be provided by the County and shall be perpetual. This Agreement may be canceled at any time prior to the award of the Project construction contract, upon thirty (30) days written notice to either party.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The provisions of Arizona Revised Statutes Section 41-1463 and Executive Order Number 99-4 issued by the Governor of the State of Arizona are incorporated by this reference as a part of this Intergovernmental Agreement.

6. **Non-Availability of Funds:** Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

7. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX: (602) 712-7424

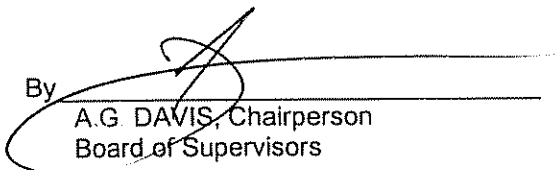
Yavapai County
Public Works Director
1100 Commerce Drive
Prescott, AZ 86305

9. Pursuant to Arizona Revised Statutes Section 11-952 D., attached hereto, is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

YAVAPAI COUNTY, ARIZONA

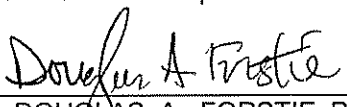
By


A.G. DAVIS, Chairperson
Board of Supervisors

STATE OF ARIZONA

Department of Transportation

By


DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer

ATTEST

By

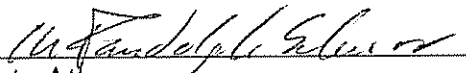

BEV STADDON
Clerk of the Board

JPA 03-123

APPROVAL OF THE YAVAPAI COUNTY ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and YAVAPAI COUNTY, an agreement among public agencies which, have been reviewed pursuant to A.R.S. § 11-951 through §11-954 and declare this agreement to be in proper form and within the powers and authority granted to the COUNTY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into the agreement.

Dated this 25th day of July, 2004.


County Attorney

**CERTIFIED COPY OF ENTRY IN OFFICIAL MINUTES
OF THE YAVAPAI COUNTY BOARD OF SUPERVISORS**

YAVAPAI COUNTY)
) ss.
ARIZONA)

Bev Staddon, having been first duly sworn, deposes and says:

I am the duly appointed, qualified and acting Clerk of the Yavapai County Board of Supervisors and in such capacity under the provisions of ARS §11-241 am charged with the responsibilities, among others, of recording all proceedings of the Board and maintaining custody of such records of the Board as are required by law to be maintained. Among the records of which I have custody is the official minute book of the Board of Supervisors which under the provisions of ARS §11-217 is required to be made and kept.

Set forth below is a copy of an entry in the aforesaid minute book of which, as aforesaid, I am the officer having the legal custody. This is my certificate under the provisions of Rule 44(A), Rules of Civil Procedure, and the Uniform Business Records Act, that the said copy is a true and correct copy thereof, to which I attest by my signature subscribed hereunto:

Date of meeting of which the minutes are a record: August 2, 2004.

The entry in the said minutes:

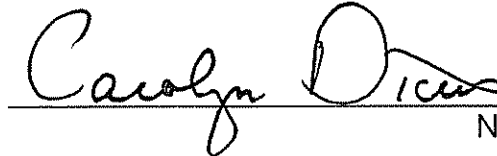
3. Consider approval of Intergovernmental Agreement JPA 03-123 with the State of Arizona for improvements to the State Route 89/Kirkland Highway intersection in the Kirkland Junction area. Cost of \$516,000, half-cent sales tax project. Approved by unanimous vote. Motion by Supervisor Street, second by Supervisor Brownlow. No comments from the public.



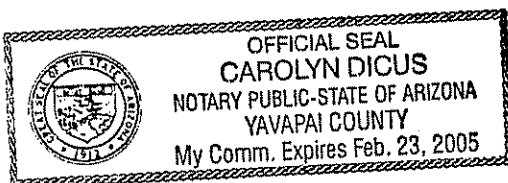
Bev Staddon, Clerk

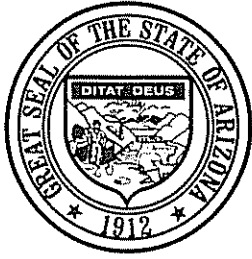
SUBSCRIBED AND SWORN to before me August 16,
2004.

My Commission Expires:



Notary Public





**ATTORNEY GENERAL
CIVIL DIVISION
TRANSPORTATION SECTION**

MEMORANDUM

Jeffrey T. Murray
Assistant Attorney General

Direct: (602) 542-8859
Fax: (602) 542-3646


**INTERGOVERNMENTAL AGREEMENT
DETERMINATION**

A.G. Contract No. KR04-0800TRN (**JPA 03-123**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED September 7, 2004.

TERRY GODDARD
Attorney General



JEFFREY T. MURRAY
Assistant Attorney General
Transportation Section